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**SUBSTITUTE SENATE BILL 5916**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Children & Family Services (originally sponsored by Senators Roach, Talmadge, L. Smith and Stratton).

Read first time March 6, 1991.

1       AN ACT Relating to the department of social and health services;  
2 amending RCW 74.13.300 and 13.34.110; adding new sections to chapter  
3 74.13 RCW; adding new sections to chapter 13.34 RCW; creating a new  
4 section; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION.   **Sec. 1.**       It is the intent of the legislature to  
7 provide timely, thorough, and fair procedures for resolution of  
8 grievances of clients, foster parents, and the community resulting from  
9 decisions made by the department of social and health services.  
10 Grievances should be resolved at the lowest level possible, however,  
11 all levels of the department should be held accountable and responsible  
12 to individuals who are experiencing difficulties with their services or  
13 decisions.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 74.13 RCW  
2 to read as follows:

3        The department shall develop and implement, by July 1, 1991, a  
4 formal complaint resolution process to be used by clients of the  
5 department, individual complainants, and foster parents who have  
6 complaints regarding a policy of a division of the department or  
7 procedure or the application of a division policy or procedure.

8        After a complainant initiates the complaint resolution process,  
9 jurisdiction shall continue for thirty days unless an extension is  
10 agreed to by the complainant. After thirty days, if no extension has  
11 been agreed to, the complainant may file an application for an  
12 adjudicative proceeding under chapter 34.05 RCW.

13        The department shall develop procedures to assure that clients of  
14 the department and foster parents are informed of the availability of  
15 the complaint resolution process and how to access it. The department  
16 shall incorporate information regarding the complaint resolution  
17 process into the training for foster parents and caseworkers.

18        Any client of the department, individual complainant, or foster  
19 parent who uses the department's complaint resolution process and who  
20 is subjected to any reprisal or retaliatory action undertaken after the  
21 complainant makes his or her complaint known to the department may seek  
22 judicial review of the reprisal or retaliatory action in superior  
23 court. In such action, the reviewing court may award reasonable  
24 attorneys' fees.

25        The department shall compile complaint resolution data including  
26 about whom a complaint was made, by whom, and the outcome of the  
27 complaint. The department shall submit semiannual reports, due January  
28 and July of each year, beginning January 1992, to the senate children  
29 and family services committee and the house of representatives human  
30 services committee.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 74.13 RCW  
2 to read as follows:

3        A foster parent or relative care provider may seek review of an  
4 agency decision to remove a foster child residing in the home of the  
5 foster parent or relative, pursuant to a court order entered in a  
6 proceeding under this chapter, through use of the department's  
7 complaint resolution process. The complaint resolution process shall  
8 not be used to contest a decision to return the child home when a court  
9 order has been entered to that effect or to contest a decision  
10 regarding visitation. The foster parent or relative care provider  
11 shall initiate that process within five days of receipt of the removal  
12 decision notification. Thirty days following the initiation of the  
13 department's complaint resolution process, unless an agreed extension  
14 exists, the foster parent or relative care provider may file an  
15 application for an adjudicative proceeding under chapter 34.05 RCW.  
16 The agency shall schedule the adjudicative hearing within five days  
17 after the application is filed. A final order shall be issued by the  
18 presiding officer of the adjudicative proceeding within twenty-one days  
19 after conclusion of the hearing or after submission of memos, briefs,  
20 or proposed findings in accordance with RCW 34.05.461(7).

21        The general public shall be excluded from adjudicative proceedings  
22 regarding agency removal decisions. Only parties to the adjudicative  
23 or the dependency proceeding or persons the judge finds to have a  
24 direct interest in the case shall be admitted.

25        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 74.13 RCW  
26 to read as follows:

27        If a foster parent or relative care provider is using the  
28 department's complaint resolution process to review a decision to  
29 remove a child from the foster family home or from a relative home or

1 has filed an application for an adjudicative proceeding, the foster  
2 child shall remain in the foster or relative home unless the regional  
3 administrator determines that the child's safety is in jeopardy or that  
4 other compelling reasons exist necessitating the removal.

5 **Sec. 5.** RCW 74.13.300 and 1990 c 284 s 12 are each amended to read  
6 as follows:

7 (1) Whenever a child has been placed in a foster family home or the  
8 home of a relative care provider by the department or a child-placing  
9 agency and the child has thereafter resided in the home for at least  
10 ninety consecutive days, the department or child-placing agency shall  
11 notify the foster family in writing of the reasons upon which the  
12 decision to move the child was based, at least five days prior to  
13 moving the child to another placement, unless:

14 (a) A court order has been entered requiring an immediate change in  
15 placement; or

16 (b) ~~((The child is being returned home;~~

17 ~~(c)))~~ The child's safety is in jeopardy~~((; or~~

18 ~~(d) The child is residing in a receiving home or a group home)).~~

19 (2) If a decision is made by the department or a child-placing  
20 agency to move a child to another placement, the foster family parent  
21 or relative care provider shall receive written notice of his or her  
22 right to request a review of the removal decision regarding a child  
23 that is residing in the home of the foster parent or relative pursuant  
24 to a court order entered in a proceeding under this chapter through the  
25 department's complaint resolution process. The notification shall also  
26 advise the foster family parent or relative care provider that if the  
27 complaint remains unresolved after use of the department's complaint  
28 resolution process, he or she may file an application for an  
29 adjudicative proceeding under chapter 34.05 RCW. Notification of the

1 department's complaint resolution process and right to an adjudicative  
2 proceeding is not required to be provided if:

3 (a) A court order has been entered requiring an immediate change in  
4 placement; or

5 (b) The child is being returned home and a court order has been  
6 entered to that effect.

7 (3) If the child has resided in a foster family home for less than  
8 ninety days or if, due to one or more of the circumstances in  
9 subsection (1) of this section, it is not possible to give five days'  
10 notification, the department or child-placing agency shall notify the  
11 foster family of proposed placement changes as soon as reasonably  
12 possible.

13 ~~((+3))~~ (4) This section is intended solely to assist in minimizing  
14 disruption to the child in changing foster care placements. Nothing in  
15 this section shall be construed to ~~((require that a court hearing be~~  
16 ~~held prior to changing a child's foster care placement nor to))~~ create  
17 any substantive custody rights in the foster parents.

18 NEW SECTION. Sec. 6. A new section is added to chapter 74.13 RCW  
19 to read as follows:

20 The department shall establish rules specifying the criteria needed  
21 to be a foster-adopt parent and create a license for that category of  
22 foster parent. Specific placement procedures regarding foster-adopt  
23 shall be incorporated into the training for caseworkers. The  
24 department shall develop a form that constitutes an agreement between  
25 the department and each foster-adopt parent. The agreement shall  
26 include, in bold-faced, capital letters, the fact that there is no  
27 guarantee that parental rights to a foster child being placed in the  
28 foster-adopt home will be terminated. The form shall include a section  
29 where the foster-adopt parents indicate what representations, if any,

1 were made to them by the department regarding adoption. The department  
2 shall implement the foster-adopt agreement form by July 1, 1991, and  
3 report back to the legislature by September 1, 1991. If parental  
4 rights to the child in the foster-adopt home are terminated, the  
5 foster-adopt parents shall be given first consideration to adopt the  
6 foster child. If foster-adopt parents seek judicial review of a  
7 decision to remove a foster child from their care and prevail, the  
8 department shall pay court costs and attorneys' fees.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.34 RCW  
10 to read as follows:

11 If a child has resided in a foster-adopt home for a period of  
12 twelve months or more, the foster-adopt parents may file a petition  
13 seeking termination of the parent and child relationship.

14 **Sec. 8.** RCW 13.34.110 and 1983 c 311 s 4 are each amended to read  
15 as follows:

16 The court shall hold a fact-finding hearing on the petition and,  
17 unless the court dismisses the petition, shall make written findings of  
18 fact, stating the reasons therefor, and after it has announced its  
19 findings of fact shall hold a hearing to consider disposition of the  
20 case immediately following the fact-finding hearing or at a continued  
21 hearing within fourteen days or longer for good cause shown. The  
22 parties need not appear at the fact-finding or dispositional hearing if  
23 all are in agreement; but the court shall receive and review a social  
24 study before entering an order based on agreement. No social file or  
25 social study may be considered by the court in connection with the  
26 fact-finding hearing or prior to factual determination, except as  
27 otherwise admissible under the rules of evidence. Notice of the time  
28 and place of the continued hearing may be given in open court. If

1 notice in open court is not given to a party, that party shall be  
2 notified by mail of the time and place of any continued hearing.

3 All hearings may be conducted at any time or place within the  
4 limits of the county, and such cases may not be heard in conjunction  
5 with other business of any other division of the superior court. The  
6 general public shall be excluded, and only such persons may be admitted  
7 who are found by the judge to have a direct interest in the case or in  
8 the work of the court. If a child resides in foster care or in the  
9 home of a relative pursuant to a disposition order entered under RCW  
10 13.34.130, the court shall allow the child's foster parent or relative  
11 care provider to attend dependency review proceedings pertaining to the  
12 child for the purpose of providing information about the child to the  
13 court.

14 Stenographic notes or any device which accurately records the  
15 proceedings may be required as provided in other civil cases pursuant  
16 to RCW 2.32.200.

17 NEW SECTION. Sec. 9. A new section is added to chapter 13.34 RCW  
18 to read as follows:

19 If a dependent child has resided in the home of a foster parent or  
20 a relative for at least eighteen months pursuant to a court order  
21 entered in a proceeding under this chapter, the foster parent or  
22 relative may file a motion to intervene as a party in the action  
23 pertaining to the child. The motion to intervene shall be served upon  
24 the parties to the action as provided in applicable juvenile court and  
25 superior court rules.

26 NEW SECTION. Sec. 10. This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and shall take

1 effect immediately.